

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 2.106 of the Commission's)	
Rules to Allocate Spectrum at 2 GHz for use by)	ET Docket No. 95-18
the Mobile-Satellite Service)	
)	
Amendment of Part 2 of the Commission's Rules)	
to Allocate Spectrum Below 3 GHz for Mobile)	
and Fixed Services to Support the Introduction of)	ET Docket No. 00-258
New Advanced Wireless Services, including Third)	
Generation Wireless Systems)	
)	
Flexibility for Delivery of Communications by)	
Mobile Satellite Service Providers in the 2 GHz)	IB Docket No. 01-185
Band, the L-Band, and the 1.6/2.4 GHz Bands)	

To: The Commission

**COMMENTS OF THE RADIO-TELEVISION NEWS DIRECTORS ASSOCIATION IN
SUPPORT OF PETITION FOR RECONSIDERATION OF
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION AND
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The Radio-Television News Directors Association ("RTNDA"), by its attorneys, hereby submits its comments in support of the Petition for Reconsideration of certain aspects of the Commission's decision in the *Third Report and Order and Third Memorandum Opinion and Order* ("Order") in the above-captioned proceeding filed by the Association of Maximum Service Television and the National Association of Broadcasters ("MSTV/NAB Petition"). RTNDA is the world's largest professional organization devoted exclusively to electronic journalism. RTNDA represents local and network news executives in broadcasting, cable and other electronic media in more than 30 countries. By submitting these comments, RTNDA wishes to underscore for the Commission the debilitating impact its *Order* will have on the

ability of broadcasters in markets outside the top 30 to provide critical news and information services to the viewing public.

As the Commission is well aware, the Broadcast Auxiliary Service (“BAS”) is essential to local news operations for live reporting and coverage of newsworthy events. Recognizing the limited availability of BAS spectrum, particularly at 2 GHz, RTNDA’s members have for years incorporated new technology and efficient spectrum re-use techniques on a voluntary, cooperative basis. Broadcasters have been willing to do so, however, given Commission assurances that the agency’s policies and the rules implementing them will recognize the importance of facilitating electronic newsgathering (“ENG”) so as to enable broadcasters to continue to provide the live reporting and other local news services their viewers expect and upon which the public has come to rely.

Indeed, in this and other proceedings, the Commission has made clear that the provision of local news and information programming remains one of the agency’s core concerns. For example, in its recent *Biennial Ownership Order*, the Commission noted that “we have historically sought to promote the ability of local stations to serve their communities through news and public affairs programming,” and its media ownership rules have been structured accordingly.¹ RTNDA President Barbara Cochran is a member of the Media Security and Reliability Council, whose discussions have underscored the fundamental role ENG facilities play in keeping the public informed during a disaster or an emergency and whose recommendations to media companies emphasize the need for robust and redundant means of communication to support emergency operations. In this very proceeding, the Commission made

¹ Report and Order and Notice of Proposed Rulemaking, *2002 Biennial Regulatory Review*, MB Docket No. 02-277, 18 FCC Rcd 13620, ¶343 (2003).

a commitment to “ensure the continuity of BAS,” recognizing that the service is a “critical part of the broadcasting system.”²

The *Order*, however, is entirely inconsistent with Commission precedent and with the agency’s stated public interest goals. By failing to protect adequately BAS incumbents serving markets outside the top 30, the revised relocation plan will significantly curtail the ability of BAS incumbents in these markets to provide ENG services to the public. As the MSTV/NAB Petition explains in detail, the Commission’s decision to delay the payment of relocation compensation to BAS incumbents outside the top 30 television markets will either: (1) dramatically reduce the amount of spectrum available for ENG services in many markets; or (2) obligate BAS incumbents to pay their own relocation costs, including the purchase of new narrowband ENG equipment, pending receipt of compensation. Given the uncertain history of the Mobile Satellite Service (“MSS”), it is likely that these stations may never be compensated. Moreover, as the MSTV/NAB Petition also makes clear, the *Order* serves only to exacerbate difficulties with spectrum congestion and coordination (*e.g.*, it may be impossible for out-of-market broadcasters operating on the old channel plan to use their ENG facilities to cover stories in a top 30 market).

RTNDA will not herein reiterate the cogent arguments made by MSTV/NAB in favor of reconsideration. As an organization uniquely and intimately familiar with the challenges currently facing local broadcast news operations, however, RTNDA does wish to stress to the Commission that the revised relocation plan, which essentially amounts to a subsidy for MSS

² Second Report and Order and Second Memorandum Opinion and Order, *Amendment of Section 2.106 of the Commission’s Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service*, ET Docket No. 95-18, 15 FCC Rcd 12315, 12326 (2000).

entrants, extracts too high a price from small and mid-market broadcasters and the viewing public.

The *Order* does not create “short-term burdens for some BAS licensees.” To the contrary, the revised relocation plan will cripple the ability of many local broadcasters to provide ENG services to the public. Broadcasters outside the top 30 markets, particularly those in markets 31-100, make as significant a commitment to local news operations as do stations in the largest markets. They make extensive use of BAS spectrum. The revised relocation plan would make it impossible for these stations to sustain quality local news reporting, particularly coverage of breaking news and emergency situations. RTNDA does not believe the Commission intended such a result, particularly at a time it when it has become increasingly clear that such services are absolutely vital to public safety and homeland security.

In recent months, Congress has paid particular attention to whether changes to the FCC’s media ownership rules could threaten the diversity and localism of broadcast programming and news. House and Senate hearings have exposed concerns about stations eliminating newscasts and centralizing operations. Chairman Powell has launched a multifaceted inquiry into broadcast localism, emphasizing that “[b]roadcasters must serve the public interest, and the Commission has consistently interpreted this to require broadcast licensees to air programming that is responsive to the interests and needs of their communities.” While the effect of the media ownership rules on broadcasters’ ability to serve their local communities is being debated, the harmful impact the revised relocation plan will have on diversity and localism is abundantly clear. RTNDA submits, therefore, that the relocation plan adopted in the *Order* simply cannot be squared with Congressional objectives and long-standing Commission policy and precedent.

More specifically, because of the considerable expense involved, it has become increasingly difficult in recent years for small and mid-market stations to provide local news services. Requiring these broadcasters, whose budgets are already stretched thin, to incur the significant additional expense of replacing ENG equipment to accommodate the new relocation plan will inevitably result in cutbacks that impact negatively on the quality and local nature of news broadcasts (*e.g.*, fewer reporters). If stations choose to forego the relocation expense and operate with less spectrum, there simply will be less news coverage of emergencies and breaking events in those communities, thus altering the very nature of local newscasts. Either result is inconsistent with the public's interest in preserving diversity of programming, and ensuring that local programming responds to the needs of the community.

The relocation plan adopted by the *Order* inexplicably places the financial and operational burdens of the 2GHz relocation on small and mid-market broadcasters, who are already facing the fiscal challenges created by, among other things, the increasing cost of local news production and the transition to digital television. If the Commission wishes to reduce the costs of entry for MSS providers, RTNDA submits that it cannot reasonably do so at the expense of newsgathering operations that are critical to the public.

As the MSTV/NAB Petition amply demonstrates, the harm to the provision of local news and information in markets outside the top 30 that would result from the revised relocation plan is palpable. RTNDA joins MSTV/NAB therefore, in urging the Commission to develop a new relocation plan that either: (1) compensates BAS incumbents *before* requiring them to vacate spectrum (through contributions from MSS and/or other new entrants using the vacated spectrum); or (2) provides, through explicit and enforceable conditions in the authorizations of

new entrants into the reallocated spectrum, adequate assurance that BAS incumbents outside the top 30 markets will be compensated fully for the costs of relocating to the new spectrum band.

Respectfully submitted,

**THE RADIO-TELEVISION NEWS
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